

# FRONT LINE

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Attorney General Jay Nixon and St. Louis County Police Chief Ron Battelle announce the results of Lam Scam 6.

## Lam Scam 6: 143 arrested

### THE AG'S OFFICE

helped St. Louis County Police arrest 143 fugitives in a joint Operation Lam Scam conducted May 31 through June 2.

The AG's Office sent about 3,000 letters from the "Missouri Department of Consumer Services" telling fugitives they were recipients of monetary

awards from a settlement with a national retailer.

About 500 fugitives called a toll-free number staffed by the AG's Office to set up an appointment to collect their money.

Officers greeted and arrested the fugitives at a fake claims office set up in a St. Louis County strip mall.

The AG's Office has

helped police capture more than 900 fugitives in six undercover stings.

The first sting was conducted in November 1994 with the Jefferson County Sheriff's Department.

Others were conducted with sheriff's departments in Clay, Cape Girardeau, Jasper, Johnson, Pettis, Saline and Scott counties.

## Racial profiling bill signed

**SB 1053**, which bans police from targeting minority drivers, was signed into law on June 5. The new law also requires data on traffic stops to be compiled into a report for the AG's Office. Officers must document:

- Age, gender and race of motorist.
- Alleged traffic violation.
- Whether a search was conducted, including any consent or probable cause.
- Type of contraband discovered.
- Whether a warning or citation was issued and the violation cited.
- Whether an arrest was made and crime charged.
- Location of stop.

The new law requires each agency to submit its first report to the AG's Office by March 1, 2001, for stops made Aug. 28 through Dec. 31. More information will be provided later in



**Other law enforcement-related bills:** Pages 3-5

Front Line about the format.

The law also requires the AG's Office to analyze the reports and submit its first report to the governor, Legislature and law enforcement agencies by June 1, 2001. The report for 2000 will include:

- Total vehicle stops.
- Number and percentage of stops for each minority group.
- Comparison of number of minority motorists stopped with each group's percentage of the state population.
- Compilation of other information submitted by law enforcement.

**SEE RACIAL PROFILING**, Page 2

## Appeals court: Terry stop illegal

**A STATE APPEALS COURT** on Feb. 22 reaffirmed that individuals cannot be detained for purposes of a *Terry*-type investigative detention unless reasonable suspicion exists to believe the suspect is or may be involved in criminal activity.

In *State v. David*, 13 S.W.3d 308 (Mo.App., W.D. 2000), police officers had reliable information that Stanley Smith of Maitland was making meth in his home. They obtained a search warrant but decided to wait and search his home while Smith was at a substance abuse class.

Police had reliable information Smith would be attending the class with friend Tommy Lee David. Shortly after officers saw Smith and

**SEE TERRY STOP**, Page 2

# Supreme Court prohibits 'plain squeeze' searches

**THE U.S. SUPREME COURT** ruled on April 17 that a bus passenger who puts luggage in an overhead rack reasonably maintains an expectation of privacy in those bags and that expectation is violated when a police officer squeezes the bags in a warrantless drug search.

*Bond v. United States* involved the search and seizure of an oval-shaped brick of meth the suspect had placed in a canvas bag. Officers boarded the bus at an immigration checkpoint and began feeling suitcases in the storage racks. The police argued that once luggage is placed in an overhead rack, anyone can squeeze or feel the luggage.

The Supreme Court disagreed, saying a passenger does not expect other passengers or bus employees

to "feel the bag in an exploratory manner."

Several years ago, the Supreme Court expressly permitted police officers and even drug dogs to enter buses to check for drugs. But physically manipulating or squeezing the luggage is not permitted, according to the court.

This is true although the Supreme Court recognized the "plain feel" exception to the search in *Minnesota v. Dickerson*. The distinction between these cases is that "plain feel" allows an officer to remove evidence uncovered during a frisk — provided the frisk was permitted. In this most recent decision, the police did not have authority to "feel" the luggage.

## TERRY STOP

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David attend the class, the two men left. David went to a vehicle and was seen "doing something inside the vehicle." The officers detained, handcuffed and frisked David. They then found evidence in the car.

The court ruled David's detention was illegal. While the officers had reasonable suspicion that David was with Smith, they had **no reasonable suspicion** to believe David was involved in criminal activity.

"A suspicion that the individual in the parking lot was David is not a suspicion of criminal activity," the court said. "The officer did not articulate any reasonable suspicion that David was about to commit, or had committed, any crime."

The court was concerned that the officers' actions essentially constituted an **arrest** of David. Not only was reasonable suspicion lacking, but there also was no probable cause. Yet David was handcuffed, detained and frisked with no explanation as to why the acts were lawful or necessary.

## RACIAL PROFILING

**CONTINUED** from Page 1

Each police agency must adopt a policy on race-based traffic stops that:

- Prohibits the practice of pretextual stops of minorities.
- Provides for periodic reviews of the AG's report. The agency review will determine whether a disproportionate number of minorities are stopped and, if so, whether pretextual

The new law involves several implementation issues for local and state law enforcement. For more information, call James Klahr, assistant attorney general for legislative affairs: **573-751-1800**

stops are being made.

- Provides counseling and training for officers who have made race-based traffic stops.
- Provides for annual sensitivity

training if deemed necessary.

The governor may withhold state funds from agencies that fail to comply with the law's provisions.

Also, each city and county may establish a civilian review board to investigate complaints against officers and recommend disciplinary action.

The board cannot make any findings or recommendations based on an unsworn, unsubstantiated or withdrawn complaint.



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## LEGISLATIVE UPDATE

Several measures that would affect the law enforcement community have been approved by the Legislature. If signed by the governor, these bills will become effective Aug. 28 unless a bill contains an emergency clause.

### FINANCIAL EXPLOITATION OF ELDERLY

**HB 1386** creates the crime of financial exploitation of an elderly or disabled person.

Anyone in a position of trust and confidence with an elderly or disabled person commits a class A misdemeanor or a class C felony if he knowingly and by deception or intimidation gets control of property with the intent to permanently deprive that person of the use of the property.

The crime becomes a class C felony for property worth \$250 or more. HB 1386 specifies that legitimate estate planning for elderly or disabled persons is not a crime.

### DOMESTIC VIOLENCE

**HB 1677 et. al.** makes numerous changes to domestic violence laws. Among the provisions:

- Requires that the Uniform Crime Reporting System be adopted.
- Expands the definition of "family" or "household member" in the adult abuse law to include a person who has been in a continuing social relationship, whether romantic or not.
- Requires consent orders of protection to include a court finding of abuse.
- Requires local law enforcement to determine if any criminal case involves domestic violence.
- Establishes separate crimes of domestic assault in the first, second and third degree.
- Updates the harassment law to include electronic communications.

### WEAPON- AND DRUG-FREE SCHOOLS

**SB 944** amends Section 167.115 to require sheriffs, police chiefs and other law enforcement authorities to notify the school superintendent when a petition is filed alleging a student has committed a specified criminal act (22 acts are listed). Currently, only a juvenile officer is required to notify the superintendent.

The bill also specifies that no one can carry a lethal weapon into a school or onto a school bus or premises of any school function (Section 571.030). This does not apply to a person traveling on school grounds to pick up or drop off a student or to a person involved in a school-sanctioned, firearm-related event.

The crime is a class A misdemeanor when it involves unloaded firearms and a class D felony for loaded firearms.

The bill creates the crime of making a terroristic threat (Section 574.150).

A person commits this crime if he:

- Threatens to commit a felony;
- Knowingly and falsely reports the commission of any felony; or
- Knowingly and falsely reports a catastrophe when the communication is intended to frighten 10 or more people, evacuate a building or, with reckless disregard that the communication will result in an evacuation.

The crime is a class C felony unless committed with reckless disregard for the result, then it is a class D felony.

A person commits the crime of trespass of a school bus if he knowingly and unlawfully enters or unlawfully operates a bus. It is a class A misdemeanor (Section 569.155).

### CORONER REPORTS

**HB 1353** allows some people to receive a coroner's report without a subpoena. Currently, a coroner's report is released only by subpoena. Those who would be able to get a report without a subpoena are:

- Person involved in an accident.
- Spouse or family member related within second degree of consanguinity to a person killed in an accident (includes a parent, child, aunt, uncle, niece, nephew, grandparent and grandchild).
- Attorney for the person involved in an accident.
- Insurer for the person involved in an accident or whose property is involved in the accident for purposes of investigating a civil claim or defense.

SENATE BILL 757

# Several changes made to child porn laws

**SB 757** makes several changes to the child pornography laws.

**Section 556.063 (new)** defines “computer” and related terms to be applied in the criminal statutes, including child porn statutes.

**Section 568.110** requires computer providers, installers, repair persons and Internet service providers to report to law enforcement any observed computer-generated image or photo of a child younger than 18 engaged in sexual conduct. Film processors now have this duty.

**Section 573.010** redefines “child pornography” to require that the material be obscene.

The definition of “child” is added to include any person younger than 14.

**Section 573.020** expands the crime of promoting obscenity to include material sent via computer if the person sending the material knows the person is a minor. A minor is anyone younger than 18.

**Section 573.023 (new)** creates the crime of sexual exploitation of a minor. A person commits this crime if he creates child porn or obscene material with a minor. Sexual exploitation is a class B felony or, in the case of a child, a class A felony.

**Section 573.025** states that a person promotes first-degree child pornography if, knowing its content and character, he possesses with the



## LEGISLATIVE UPDATE

intent to promote, or promotes obscene material where the child is a participant, or portrays what appears to be a child as a participant or observer of sexual conduct.

**Section 573.030** expands the crime of promoting pornography for minors or obscenity in the second degree to include promotion via a computer when the person makes the material available to a known minor.

**Section 573.035** states that a person promotes second-degree child pornography if he possesses with intent to promote, or promotes child porn or obscene material that has a participating minor, or portrays what appears to be a minor participating or observing sexual conduct. This crime is a class C felony or a class B felony if the person knowingly promotes the material to a minor.

**Section 573.037** states that a person commits the crime of possession of child porn if, knowing its content and character, he possesses obscene material that has a child participant or portrays what appears to be a child observing or participating in sexual conduct.

**Section 573.040** expands the crime of furnishing pornographic material to minors to include furnishing material via a computer if the person knows it is available to a minor.

## SEX OFFENDER REGISTRATION

The legislation updates the sex offender registration statutes to comply with federal law.

A person must register in Missouri if he has been required to register in another state or under federal or military law, or if he is registered under another law but works or attends school full time or part time in Missouri.

A Missouri resident who works or attends school part time in another state must register in that state. “Part time” means more than 14 days in any 12 months. The chief law enforcement officer must send registrations to the Highway Patrol within three days rather than the now required 10 days.

If a registrant moves to a new state, he must personally inform both local law enforcement agencies within 10 days of the move. The Highway Patrol must inform the official in the new state.

All registrants must report annually during their birth month to the county law enforcement agency to verify registration information. Those who don’t, commit a class A misdemeanor or a class D felony for a second or subsequent violation.

**SEE CHANGES**, Page 5

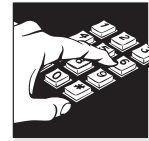
# Meth Strike Force convicts 17 this year

**THE AG'S METH** Prosecution Strike Force continues to stay busy in 2000, assisting local prosecuting attorneys with criminal cases related to meth and other illegal drugs.

Strike Force Director Tim Anderson reports that so far this year there have been 17 convictions. They include a Barton County defendant found guilty of manufacturing meth

and sentenced as a prior and persistent drug felon to 15 years in prison without probation or parole.

The Strike Force now is assisting prosecutors in 21 counties. From the start of the year, 23 cases have been referred to the Strike Force. Unit attorneys and investigators also are involved in several ongoing investigations throughout the state.



**CALL FOR HELP**  
Law enforcement officials seeking information or assistance can call Strike Force Director Tim Anderson:  
573-751-1508

# Changes made to child protection laws

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## CHILD MOLESTATION

**SB 757** expands the crime of first-degree child molestation to include cases where the victim is younger than 14. Currently, the victim must be younger than 12. First-degree child molestation is a class B felony or a class A felony if a deadly weapon is used.

The bill expands the crime of second-degree child molestation to include cases when the victim is younger than 17. The penalty is a class A misdemeanor or a class D felony if a deadly weapon is used.

## STATE TECHNICAL ASSISTANCE TEAM

The bill establishes in statute the State Technical Assistance Team to help train and, on request, investigate cases involving child abuse, neglect, child sexual abuse, child exploitation and child fatalities. If investigatory assistance has been requested, the STAT investigator will be considered a peace officer if certified pursuant to Chapter 590, RSMo.



## LEGISLATIVE UPDATE

### OTHER OFFENSES

**Section 568.052** creates the crime of leaving a child unattended in a motor vehicle. A person commits this crime in the first degree (class C felony) if he knowingly leaves a child age 10 or younger unattended in a vehicle and that child fatally injures another person by causing a collision. A child commits this offense in the second degree (class A misdemeanor) if he injures another person by causing a collision.

**Section 568.065** creates the crime of genital mutilation involving a girl younger than 17. Genital mutilation is a class B felony.

Consent of the child's parent or guardian to the mutilation is not a defense nor is it a defense that the mutilation is performed according to custom or ritual. It is a defense if performed by a physician to preserve the child's health or when the child is in labor.

## CHILD PROTECTION PROVISIONS

The bill makes several changes to the child protection laws.

**Section 210.110** requires "jail or detention center personnel" to report suspected child abuse or neglect to the Division of Family Services.

If the division receives a report that merits further investigation and constitutes a suspected criminal case with a child victim, it must immediately contact the appropriate law enforcement agency.

The agency must help the division investigate or, within 24 hours, explain in writing why it can't assist. If the division's local office needs to observe the child, the police agency must take steps to facilitate direct observation.

If the local office determines it is inappropriate to pursue the investigation, it is required to notify the police agency in writing of its determination. However, law enforcement can continue to investigate the allegations.

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You now can find Front Line on the AG's Office Web site:  
Look for the law enforcement link at [www.ago.state.mo.us](http://www.ago.state.mo.us)